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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,484	10/17/2001	Mark B. Littlejohn	2312 (FJ-00-39)	5150

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MICHAEL W. FERRELL, ESQ.
FERRELLS, PLLC
P.O. BOX 312
CLIFTON, VA 20124-1706

EXAMINER	
MAI, TRI M	

ART UNIT	PAPER NUMBER
3727	

DATE MAILED: 11/28/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

CS

Office Action Summary	Application No.	Applicant(s)	
	09/978,484	LITTLEJOHN ET AL.	
	Examiner	Art Unit	
	Tri M. Mai	3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-107* is/are pending in the application.

4a) Of the above claim(s) *39-49 and 87-107* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-38 and 50-86* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3 .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Election/Restrictions

1. Claims 39-49, and 87-107 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 11.

Drawings

2. The drawings are objected to:

The various dimensions in Figs. 5A-5C are not allowed.

The dimension D does not represent the diameter.

Information Disclosure Statement

3. The listing of certain publications in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

4. Due to the complexity of the disclosure, applicant is requested to provide a table showing the formulas of the various claimed element in term of the variable disclosed in Figs. 4.

Claim Rejections - 35 USC § 112

5. Claims 12-16, 25, 67-68, and 80-84 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear how the excess paperboard in term of inches and percentage in claims 12-16, 67-68, and 80-84 are obtained by the variables shown in Fig. 4.

In claim 25, it is unclear whether the recited lip is previously cited one in claim 22.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 4, 5, 6-9, 17, 19-20, 50-52, 54-60 and 69 are rejected under 35 U.S.C. 102(b) as being anticipated by Marx et al. (4721499). Marx teaches a container having a planar bottom portion, upwardly extending sidewall, outwardly extending flange portion with densified regions formed from a plurality of paperboard layers with height to diameter ratio (H/2R=.05-.4); and flange width to diameter ratio (Lr+F)/2R=.005-.4

Regarding claims 7-9, note col. 6, lines 23.

Regarding claims 50, 52, the angle =90-delta=0-60 degrees

Regarding claims 54, 55, C1/2R=.025-.15.

Regarding claims 56, C2/2R=.005-.05

Regarding claim 58, 2R=4-16 inches, H=.2-6.4

Claim Rejections - 35 USC § 103

8. Claims 2-3, 10-16, 18, 61-68, and 70-86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marx et al. (4721499).

Regarding claims 2, 3, 72, 73, it would have been obvious to one of ordinary skill in the art to extend to at least about 75 percent of the length of the scores to provide the desired rigidity of the container.

Regarding claims 10-11, 61-64, 78-79, it would have been obvious to one of ordinary skill in the art to provide the blank having a width from .01 inches to about .05 inches to provide the desired dimension for the container.

Regarding claims 12-16, 67-68, 80-84, to the degree that the excess paperboard per score is based on the relationship with the initial blank and does not impart any structural differences over the dimension as specified in Marx. Furthermore, it would have been obvious to one of ordinary skill in the art to provide the claimed value of the percentage excess paperboard per score to provide the desired dimension for the container.

Regarding claims 38, 68, 71, and 86, it would have been obvious to one of ordinary skill in the art to provide scores to extend to at least about 75 percent of the height of the sidewall to provide the desired rigidity of the container.

9. Claims 21-38, and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marx et al. (4721499) in view of Sanstrom. Marx meets all claimed limitations except for the inorganic pigment. Sanstrom teaches that it is known in the art to provide inorganic pigment in Marx as taught by Sanstrom to provide the desired printing pigment for the decorating the container.

With respect to the coating being water-based coating, it would have been obvious to one of ordinary skill in the art to provide water-based press-applied overcoat in Marx as taught by Sanstrom to provide the desired coating for the container.

Note height to diameter ratio (H/2R=.05-.4); length of lip to diameter (LH/2R=.01-.05)

Regarding claims , it would have been obvious to one of ordinary skill in the art to extend to at least about 75 percent to provide the desired rigidity of the container.

Regarding claims 30-31, it would have been obvious to one of ordinary skill in the art to provide the blank having a width from .01 inches to about .05 inches to provide the desired dimension for the container.

Regarding claims 32-36, to the degree that the excess paperboard per score is based on the relationship with the initial blank and does not impart any structural differences over the dimension as specified in Marx. It would have been obvious to one of ordinary skill in the art to provide the claimed value of the percentage excess paperboard per score to provide the desired dimension for the container.

Regarding claim 38, it would have been obvious to one of ordinary skill in the art to provide scores to extend to at least about 75 percent of the height of the sidewall to provide the desired rigidity of the container.

Regarding claim 53, Sanstrom teaches that it is known in the art to provide a angle approximately 5 degrees (6-10.5). It would have been obvious to one of ordinary skill in the art to provide approximate 5 degrees in Marx as taught by Sanstrom to provide the desired angle for the flange.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

Tri M. Mai T Mai
Primary Examiner
Art Unit 3727